IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 12.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice S.MANIKUUMAR

Habeas Corpus Petition No.694 of 2006

V. Saraswathy ... Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary to Government,
Prohibition and Excise Department,
Government of Tamil Nadu
Fort St. George, Chennai-600 009.

2.The District Magistrate and District
Collector,
Nagapattinam District. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the second respondent in C.O.C.8/2006 dated 30.03.2006 and quash the same and direct the respondents to produce the person or body of the detenu Pandian, aged about 28 years S/o Vaiyakani Nadar, who was confined in the Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr. R. Shivakumar
For Respondents : Mr. M. Babu Muthu Meeran
Addl. Govt., Pleader

WEB COPY

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the mother of the detenu by name Pandian, who was detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers,

https://hcservices.ecourts.gov.in/hcservices/

Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982(Tamil Nadu Act 14 of 1982), by the impugned detention order dated 30.03.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 19. 19.07.2006 was received by the Government on 25.07.2006 and remarks were called for on 26.07.2006. Thereafter, the remarks were received by the Government on 18.08.2006 and the File was submitted on 21.08.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 21.08.2006 and 22.08.2006 respectively and finally, the Minister for Prohibition and Excise passed orders on 23.08.2006. The rejection letter was prepared on 24.08.2006 and it was sent to the detenu on 25.08.2006 and served to him on 29.08.2006. As rightly pointed out by the learned counsel for the petitioner, though parawar remarks were called for from the Sponsoring Authority on 03.08.2006, Collectorate received the remarks from the sponsoring authority on 07.08.2006, and the same was sent to the Government only on 13.08.2006, there is no explanation at all for taking such a long time for submitting report to the Government. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken by the sponsoring authority is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

WEB COPY

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

kh

https://hcservices.ecourts.gov.in/hcservices/

To

1. The Secretary to Government,
   Prohibition and Excise Department,
   Government of Tamil Nadu
   Fort St. George, Chennai-600 009.
2. The District Magistrate and District
   Collector,
   Nagapattinam District.
3. The Superintendent,
   Central Prison, Thiruchirappalli.
   (In duplicate for communication
   to detenu)
4. The Joint Secretary to Government,
   Public (Law and Order)
   Fort St. George, Chennai-9.
5. The Public Prosecutor,
   High Court, Madras.

HCP. No.694 of 2006

PV (CO)
kk 19/9

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/